



FOOD PRODUCTS, INC.

*A family tradition of quality and great taste.*

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FOREIGN-TRADE ZONES BOARD

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November 13, 2009

OFFICE OF THE  
EXECUTIVE SECRETARY

Andrew McGilvray  
Executive Secretary  
Foreign Trade Zones Board  
United States Department of Commerce, Suite 2111  
1401 Constitution Avenue, NW  
Washington, DC 20230

**RE: Response to the comments from the American Dehydrated Onion and  
Garlic Association**

Dear Mr. McGilvray:

Thank you for the opportunity to respond to the American Dehydrated Onion and Garlic Association's comments. Tulkoff Food Products, Inc., (Tulkoff) is alarmed that The American Dehydrated Onion and Garlic Association's (ADOGA) opposition is strewn with exaggerated claims and statistics in order to make its case against our Subzone application. Despite ADOGA's claims, our company's Subzone application is consistent with U.S. Trade and Tariff Law, will bring a net economic benefit to the United States, and will allow Tulkoff to expand its exports.

Tulkoff Food Products, Inc. is a third generation family-owned United States company with 75 years of experience in the food products industry. Tulkoff is one of the last surviving food manufacturing companies in the Baltimore region. Over sixty percent of Tulkoff's business is bulk horseradish and garlic products to restaurants and other prepared food makers. Garlic items outsell all other products at Tulkoff Food Products. Taking advantage of every possible opportunity to increase business and become more competitive with international companies will be the difference between survival and extinction.

**Tulkoff's application is consistent with U.S. Trade and Tariff Law:**

I. *The Duty Rate is still High:* Tulkoff's application is consistent with U.S. Trade and Tariff Law in that use of an inverted tariff is available, legal and is currently used by numerous industries to reduce the ultimate tariff on finished products manufactured in the U.S. Even with the Inverted Tariff, the 12% duty on the dehydrated garlic from China would still be one of the higher tariffs in the Harmonized Tariff schedule. Tulkoff is producing and selling a finished product that is a wet, ready to use rehydrated garlic for the food service industry. Tulkoff is *not* competing for business with other importers that

sell dehydrated product for use as a dry spice or ingredient as was implied in the ADOGA's opposition letter.

II. *The imports will take place regardless, even by ADOGA membership:*

Under Foreign Trade Zone regulations, one of the tests is to examine if inverted tariff procedures would be the direct or sole cause of an import.

"The activity involves items subject to quantitative import controls or inverted tariffs, and the use of zone procedures would be the direct and sole cause of imports that, but for such procedures, would not likely otherwise have occurred, taking into account imports both as individual items and as components of imported products"<sup>1</sup>

The importation of dehydrated garlic in question is likely to occur at the same quantities whether or not Foreign Trade Zone status is secured. Members of ADOGA cannot even meet demand for domestic consumption.

Two recent bills of lading available through Import Genius (attached to this letter), a trusted company that provides import information from other companies, illustrates ADOGA member's reliance on imported Chinese garlic. One shows imports of Chinese garlic product to Conagra Food (which owns Gilroy Foods) in Gilroy, CA and the other for Sensient in Turlock, CA. Also attached is a Product Specification sheet from Gilroy Foods which shows the properties of dehydrated Chinese minced garlic which they offer for sale.

It is also known that ADOGA members have production facilities in China and offer Chinese garlic to U.S. customers, claiming their product is domestic by mixing it with enough domestic garlic to allow it to pass as domestic garlic. We would argue that the ADOGA's memberships own production facilities in China and their imports are the real competition to fresh garlic growers like Christopher Ranch. ADOGA's opposition to Tulkoff Food Product's application is merely a hypocritical protection of their company interests.

III. *Tulkoff's Garlic is Obtained Lawfully:*

Two members of ADOGA state that they are looking for protection from "...*unfairly and, potentially, illegally traded Chinese imports of dehydrated garlic.*" The product Tulkoff purchases complies with all federal trade and food safety regulations. ADOGA's counsel, in a 1994 letter to the United States Department of Commerce, tried to stymie companies from getting around the tariff on Chinese dehydrated garlic through the importation from other free-trade nations such as Israel. Tulkoff Food Products, when needing to import, has always done so directly with China and has never tried to get around a tariff illegally by importing Chinese garlic through a free-trade country.

IV. *Purchasing Domestic Garlic would make Tulkoff non-competitive:*

Tulkoff again asserts that it would be willing to purchase 100% domestic product if the prices were at all comparable. Typically, domestic garlic costs two to four times more

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<sup>1</sup> 15 C.F.R. §400.31(b) (iii) Manufacturing and processing activity

than the imported garlic from China, thus keeping Tulkoff from competing in the foodservice marketplace where cost is the overarching criteria in making supply decisions. According to the University of California, Davis, Chinese garlic is between .40 to .70 cents less per pound than United States garlic.<sup>2</sup> Tulkoff received a quotation from Sensient in October of 2008 for domestic dehydrated garlic which at the time was 2.69 times more expensive than the comparable Chinese product.

### **Tulkoff's Net Economic Impact:**

#### *I. Net Employment Gain:*

Although not previously stated in the original application, if Tulkoff was permitted to have a subzone, within three years, Tulkoff would be able to hire more workers, producing a net positive economic impact. ADOGA's claim that approval of the subzone would cause a job loss in rural California is an extreme exaggeration. Assuming that Tulkoff were approved and were able to increase their business by ten percent (which in the food business would be huge) the actual increase in dehydrated material purchased would be approximately three percent. So three percent more of one percent of the total marketplace is hardly enough to displace workers in California.

#### *II. The Truth about Unemployment:*

According to the United States Census, the unemployment rate for the last 12 month period is on average, only 9.5% in Fresno County<sup>3</sup>. Baltimore City, on the other hand, has an average unemployment rate of 10.4%.<sup>4</sup> The 41% unemployment figure was grossly misrepresented in ADOGA's letter. Furthermore, a company such as Tulkoff Food Products has far less marketshare even if granted Foreign Trade Zone status, and would be unable to affect employment in Fresno, California.

*III. Tulkoff Food Products is an Economic Benefit to Baltimore City and the region:* Tulkoff Food Products elected two years ago to build their new facility in Baltimore City in an Enterprise Zone (an area of economic decline as defined by the State of Maryland Department of Business and Economic Development) despite nearby county tax rates that are half of the City rates. Tulkoff employs workers that typically have the least employment opportunities, such as ex-offenders and recovering drug users who live in Baltimore City. We provide health insurance, vacation, sick leave and a 401K plan for all employees. Tulkoff's health plan is free for those electing individual coverage.

The Baltimore Development Corporation (BDC), the economic development agency for the City of Baltimore, courted Tulkoff Foods to stay in the City and has touted Tulkoff's success in all of its recent publications. The BDC considers Tulkoff Food Products to be an important employment source for Baltimore City residents and an economic driver for the Port of Baltimore. Both the garlic and horseradish components come in through the

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<sup>2</sup> *Rural Migration News*, University of California, Davis, January 1, 2001:  
[http://migration.ucdavis.edu/rmn/more.php?id=494\\_0\\_5\\_0](http://migration.ucdavis.edu/rmn/more.php?id=494_0_5_0)

<sup>3</sup> [www.census.gov](http://www.census.gov)

<sup>4</sup> Department of Labor License and Regulation: <http://dilir.state.md.us/lmi/laus/baltimorecity.shtml>

Port of Baltimore. The indirect jobs that Tulkoff brings to the region is conservatively estimated to be around thirty jobs.

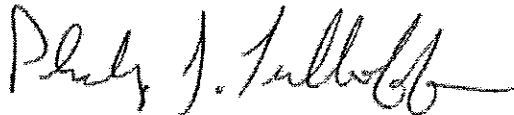
IV: *Tulkoff Exports would expand:*

Tulkoff has successfully focused on exports for the last two years. Tulkoff Food Products has been a member of the Southern U.S. Trading Association (SUSTA), for the prior two years and has participated in trade shows in South Korea, Canada and several domestic events focused on exporting. We have recently made strides in expanding our Canadian business which will increase garlic sales that qualify as export. Even with a weak U.S. dollar, Tulkoff will continue to expand its exports.

**Conclusion:**

Tulkoff Food Products, Inc. respectfully requests the Board to approve its subzone application for a manufacturing subzone with an inverted tariff. In this difficult economic environment, Tulkoff Food Products, Inc., a locally-owned and operated small company would like to be able to take advantage of all the programs available to them to survive in a competitive marketplace. United States demand for garlic is not met by domestic producers, and even those producers have to import Chinese garlic. The protections afforded them by the high tariff create an unfair economic advantage over other United States companies.

Respectfully,



Philip J. Tulkoff  
President

CC: The Honorable Barbara A. Mikulski  
The Honorable Benjamin L. Cardin  
The Honorable C. A. Dutch Ruppersburger  
Kathy Broadwater, Deputy Executive Director, Maryland Port Administration  
M. Jay Brodie, President, Baltimore Development Corporation  
Elizabeth Weiblen Hines, Grantee, Foreign Trade Zone #74

## **PRODUCT SPECIFICATION**

### **20737 GARLIC MINCED 100K CHINESE**

<b>Product Profile</b>	This product is prepared from fresh garlic cloves that are washed, sliced, dehydrated, and milled to desired particle size.	
	Scientific Name	<i>Allium sativum</i>
	Appearance	Light amber to light tan free flowing pieces with occasional dark pieces
	Flavor/Aroma	Typical of dehydrated garlic, strong and pungent
<b>Ingredient Statement</b>	Garlic	
<b>Allergens</b>	<i>ConAgra Food Ingredients complies with the Food Allergen Labeling and Consumer Protection Act of 2004 with a robust allergen control program to ensure food product safety. This program includes a thorough and effective sanitation and allergen identification process, yearly audits by certified third parties to validate the Food Safety and Sanitation Programs, and production scheduling based on the presence of allergens. Although every precaution is taken to prevent adventitious contamination, specific statements regarding absence of allergens are not provided.</i>	
<b>Regulatory &amp; Certification</b>	FDA: This product complies with Current Good Manufacturing Practices and shall conform to the provisions of the Federal Food, Drug and Cosmetic Act and its amendments.	
	Kosher	Parve Online certificate available at <a href="http://www.koshercertificate.com">http://www.koshercertificate.com</a> using certificate # PPSYW-8TE5G.
	Country of Origin	China
<b>Treatment</b>	Product shall not be treated with irradiation, ethylene oxide, or propylene oxide.	
<b>Physical</b>	Granulation	Trace maximum on US #6 2.0% maximum on US #8 3.0% maximum through US #20 1.0% maximum through US #35
	Defects	20 specks maximum/10g
	Bulk Index	120-130 ml/100g
<b>Chemical</b>	Moisture	6.8% maximum
	Sulfites (CFU/g)	230ppm maximum
	Lead (CFU/g)	100ppb maximum
<b>Microbiological</b>	Standard Plate Count (CFU/g)	100,000 maximum
	Yeast (CFU/g)	100 maximum
	Mold (CFU/g)	100 maximum
	Coliforms (CFU/g)	100 maximum
	<i>E. coli</i> (CFU/g)	None Detected
	<i>Salmonella</i> /375g	None Detected
<b>Storage and Shelf Life</b>	Recommend properly sealed containers stored in a cool, dry area below 70°F with low relative humidity for 36 months in a drum or 24 months for all other packages.	

# LINYI QUANYI FOODSTUFFS CO.,LTD.

BAHU TOWN,LINYI CITY,SHANDONG PROVINCE,CHINA

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Example Shipment No. 1    Example Shipment No. 2    Example Shipment No. 3

### OCEAN BILL OF LADING

#### SHIPPER

LINYI QUANYI FOODSTUFFS  
CO., LTD.  
BAHU TOWN, LINYI  
CITY, SHANDONG  
PROVINCE, CHINA

#### CONSIGNEE

CONAGRA FOOD  
INGREDIENT/GILROY.  
PO BOX 1350 PACIFIC RISE HWY  
GILROY, CA 95020 USA (R)

#### NOTIFY PARTY

VESSEL NAME  
00167

ARRIVAL DATE  
2006-01-14

PORT OF LOADING  
TSINGTAO

PORT OF DISCHARGE  
OAKLAND

#### DECLARATION OF GOODS

18MT N.W. OF CHINESE GARLIC POWDER LOT NUMBER:  
0X65075 FOR PRODUCT CODE NO.: 28YH99 DEHYDRATED  
GARLIC PREPARED FROM FRESH GARLIC; ORIGIN COUNTRY:  
CHINA; MANUFACTURER NAME AND ADDRESS: LINYI QUANYI  
FOODSTUFFS CO.,LTD. ; BAHU TOWN,LINYI CITY,SHANDONG

#### PARTICULARS <sup>(1)</sup>

CONTAINER NO.	QTY.	MARKS <sup>(2)</sup>	CARGO WEIGHT	COUNTRY OF ORIGIN
	720	N/M	18180 KG	CHINA

#### NOTES

(1) As declared by Shipper and not  
acknowledged by Carrier  
(2) Said to contain

SIGNED BY/ON BEHALF OF CARRIER <sup>3</sup>

View Additional CONAGRA FOOD INGREDIENT/GILROY Import Activity

Factory dir: Directory Ports U.S. Ports  
Importers Other West Coast Label

## Trade Connection Map

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Linyi Quanyi

EXPORTS TO

CONAGRA FOOD  
INGREDIENT/GILROY

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# Sensient

P.O. BOX 1524, 151 SOUTH WALNUT ROAD, TURLOCK CA 95381, USA ATTN: JEFF BORGES

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### Recent SENSIENT HEHYDRATED FLAVORS COMPANY Shipments

(Complete data available for registered users)

Example Shipment No. 1	Example Shipment No. 2	Example Shipment No. 3
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#### OCEAN BILL OF LADING

SHIPPER  
~~SENSIENT HEHYDRATED FLAVORS COMPANY~~  
JIULI  
FOODSTUFF CO., LTD. TAIPING  
TOWN, LINYI  
CITY, SHANDONG PROVINCE, CHINA

CONSIGNEE  
~~SENSIENT HEHYDRATED FLAVORS COMPANY~~  
P.O. BOX 1524, 151 SOUTH  
WALNUT ROAD, TURLOCK CA  
95381, USA ATTN: JEFF BORGES

NOTIFY PARTY  
SENSIENT HEHYDRATED FLAVORS  
COMPANY  
P.O. BOX 1524, 151 SOUTH  
WALNUT ROAD, TURLOCK CA  
95381, USA ATTN: JEFF BORGES

BILL OF LADING NO.  
OERT2057017B0106

VOYAGE NO.  
00167

VESSEL NAME ARRIVAL DATE  
MSC BARBARA 2007-02-16

PORT OF LOADING PORT OF DISCHARGE  
QINGDAO OAKLAND, CA

DECLARATION OF GOODS  
~~CHINA HEHYDRATED FLAVORS COMPANY~~

#### PARTICULARS (1)

CONTAINER NO.	QTY.	DECLARATION OF GOODS (2)	CARGO WEIGHT	COUNTRY OF ORIGIN
MSCU4047532	1600	N/M	39600	CHINA
TPHU5135426	CTN		KG	(MAINLAND)

(NOTES) SIGNED BY/ON BEHALF OF CARRIER

(1) As declared by Shipper and not  
acknowledged by Carrier  
(2) Said to contain



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### Trade Connection Map

(Complete data available for registered users)

Sensient

EXPORTS TO

LINYI CITY HEDONG DISTRICT JIULI

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ImportGenius allows you to:

- Identify Sensient Overseas Factories
- Monitor Sensient new shipments
- Enforce exclusivity agreements
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